

Brian J. Boquist
17080 Butler Hill Road
Dallas, Oregon 97338
Phone: 503-623-7663
Email: boquist@aol.com

AMENDED COMPLAINT

ATTACHMENT 3

24 September 2019

Case No. 3:19-CV-1163-AC

REQUEST FOR DECLARATORY JUDGEMENT

53 Pages

July 8, 2019

Senate Special Committee on Conduct

Work Session



CC REPORTING AND VIDEOCONFERENCING

172 East 8th Ave

Eugene, OR 97401

541-485-0111

www.ccreporting.com

SENATE SPECIAL COMMITTEE ON CONDUCT

WORK SESSION

July 8, 2019

Monday

COMMITTEE MEMBERS

Senator Floyd Prozanski - Chair

Senator James Manning

Senator Tim Knopp

Senator Alan Olsen

Transcribed by: Sara Fahey Wilson, CSR

P R O C E E D I N G S

1
2
3 SENATOR PROZANSKI: I want to say good
4 morning again. We're coming out of recess. I
5 apologize. It took a little bit longer for stuff to
6 take place during the break.

7 And at this point what I'm going to go
8 ahead and do is open up a work session regarding
9 this morning's public hearing. So we'll open up the
10 work session.

11 And, colleagues, the staff have
12 prepared three possible motions for us to consider.
13 I'm not saying any of them will fit or do what any
14 of us might want to do individually or what we might
15 want to do as a group.

16 There's also, as I handed out to each
17 of you, an alternative motion one, which I've put
18 together based on my review of information that has
19 come to me regarding this in kind of a hybrid of one
20 of the motions that was before -- suggested for
21 consideration by the staff for us to look at.

22 So what I'd like to do is to open it
23 up for -- as I said -- work session for individuals
24 to maybe express where they are at instead of trying
25 to run through motions. Because, first of all, I

4

1 assume like -- like most of these motions, that they
2 are new to you as individuals, and so I want you to
3 have an opportunity to review them.

4 And so I think what I would like to do
5 is just start with -- I'm going to start with
6 Senator Manning. As to your perspective based on
7 the information that you've heard this morning,
8 what, if any, steps do you believe that we need to
9 be taking as a committee as it pertains to -- as it
10 pertains to us making any recommendations regarding
11 the report that we received?

12 Remember, our task today is not to be
13 looking at the actual substance or merits of any
14 report that has been made as to becoming a complaint
15 or action as a complaint, formal or informal, but
16 instead, as counsel has directed us during her
17 testimony, as employers, that the legislative branch
18 does, in fact, have a duty to maintain and provide a
19 workplace that's free of threats of violence and
20 intimidation.

21 And so with that, Senator Manning,
22 would you like to kind of go through where you might
23 be and what your thoughts are regarding moving
24 forward, if anything?

25 SENATOR MANNING: Thank you. Thank

1 you, Mr. Chair. This is a really avoidable, in my
2 opinion, incident that we have here, but we're here
3 right now. And I've got to say that I've spoken
4 with a number of staffers, and even some of the
5 people that run the building here day to day, and
6 they have expressed to me, you know, openly that
7 they are really concerned, you know. And a number
8 of them, to include some of our Senate colleagues,
9 have expressed concerns that this would not only --
10 feeling that they might be under threat of physical
11 but also mental threat because of all the events
12 that have led up to this point.

13 And so I think where I am right now, I
14 am going to side on what I feel is best for the
15 staff and our colleagues. I think that there need
16 to be some restrictions, whether we have escorts by
17 OSP or whether or not the senator decides that he
18 would just stay away until this thing just is
19 resolved. I think those are two acceptable options
20 for me at this time.

21 I did receive a text message from
22 another Senate colleague, because everybody is
23 watching this, and I want to be very careful in how
24 I say this, but people find the threats very
25 credible. They are nervous. And it doesn't look

6

1 good for us not to do anything.

2 Again, my position right now is that a
3 best-case scenario for me would be that the senator
4 will say that, "Hey, I will stay away until whatever
5 this thing is and it blows out, and then we can come
6 back and have another conversation." Or if we can't
7 get that, you know, we will have to have some kind
8 of safeguard for the people that work here in this
9 building.

10 And I'm saying that this is a very,
11 very serious thing. Had I made those comments, I
12 believe that I would have been drug out of the
13 Capitol, at a minimum. I think that when you -- you
14 try to downplay a credible threat that I didn't --
15 he didn't mean that -- when I heard it, he meant
16 that.

17 So I think that in earnest for
18 everybody those will be two options right now that I
19 see based off of the information that we are looking
20 at. And, again, you know, he was very direct in
21 what he said, "Send bachelors and make sure that
22 they are heavily armed."

23 There is no other interpretation of
24 that no matter how you try to gaslight it.

25 Thank you, Mr. Chair.

1 SENATOR PROZANSKI: Senator Olsen?

2 SENATOR OLSEN: This committee is in
3 kind of a tough place. We're asked to adjudicate or
4 make a decision on something which we really don't
5 have all the facts on other than the fact that there
6 were statements made.

7 I imagine all of us at sometime or
8 another has made a statement in the heat of passion
9 that wasn't quite nice, didn't quite fit the -- the
10 confines of what normal society deals with.

11 This has been a very difficult session
12 for all of us. It started out with some new rules
13 that we instituted because of a continuing -- what's
14 the word I want to use? -- environment that people
15 have lived in, and it's been documented. And it
16 became very tenuous. And the pressure is quite
17 culpable. This is a tough one for me because I've
18 probably put my foot in my mouth many times also.

19 I would say we must be cognizant of
20 the fact that Senator Boquist is an elected
21 official, and he does have to have the ability to
22 represent his constituents. We can't take that
23 away.

24 I think it would be not in good stead
25 to have the senator come to the Capitol and be

1 protected by an armed guard. I don't think that
2 that is appropriate at all. I think that since we
3 are now in recess, or if you will, we won't be back
4 (inaudible) days, I think that maybe we can make
5 some form of agreement that you can conduct your
6 business from your district office and keep the
7 sanctity of the Capitol so that the whole
8 temperature of the building can cool down.

9 SENATOR PROZANSKI: All right. All
10 right. Senator Knopp?

11 SENATOR KNOPP: Thank you, Mr. Chair.

12 I find the report interesting, and
13 appreciate the presentation we had this morning. I
14 obviously saw the comments that were made by Senator
15 Boquist. I don't agree with those comments. I
16 wouldn't make those comments myself. But one thing
17 that's lacking -- and as an employer, when we have
18 incidents where somebody said something, somebody
19 does something as an employee, we interview that
20 person. And as our attorney indicated, that
21 normally does happen. It didn't happen in this case
22 because it was determined that these two statements
23 kind of spoke for themselves.

24 And I don't actually think the
25 statements do speak for themselves because we have

1 an individual who spent many years in the military,
2 and we don't know what his frame of mind was as it
3 relates to what he was thinking when he was saying
4 these statements.

5 And I don't believe at this point that
6 there is a threat to anybody in the Capitol. I
7 share an office wall with Senator Boquist, so if
8 anybody ought to be concerned, it should be me. And
9 there are no employees -- according to these
10 statements, there are no employees that were
11 threatened here at the Capitol.

12 And so -- and the two people who the
13 alleged threats were made to aren't part of the
14 report. They are not complainants as part of the
15 report, that being Senator -- President Courtney and
16 the Oregon State Police, as the attorney indicated
17 who made the presentation.

18 So really what we're left with, I
19 think, is kind of an incomplete hearing and facts of
20 the case.

21 And I honestly was hoping to hear more
22 from Senator Boquist than what his statement was,
23 but he clearly is concerned about significant
24 issues, which he expressed in his remarks. And so
25 at this point I've looked over the recommendations.

1 I can't support the wording -- the recommendations
2 as they are, but I could support something that is
3 modified in those recommendations.

4 But at this point, the wording of it,
5 in some of them to me, seems to be premature and
6 somewhat prejudicial as it relates to it.

7 If there is going to be a continuing
8 investigation, then I think we need to let that work
9 itself out. Because as I said, I do not see Senator
10 Boquist as a workplace threat. At this time we are
11 in the interim, and there are very few
12 person-to-person meetings that go on here at this
13 time, and there's very few interactions.

14 And as I said, I share an office wall
15 with Senator Boquist, and all the interactions I've
16 had with him -- and we disagree on plenty -- I've
17 never -- I've never felt threatened and don't feel
18 threatened by his -- his statements as a member.

19 SENATOR PROZANSKI: All right. As the
20 Chair and in my own personal perspective, in looking
21 at the tasks that we've been given as a committee,
22 the issues that we have before us is based on a
23 report with interim finding and recommendations,
24 what, if any, steps should we be taking. The report
25 does, in fact, reflect, as we've heard in the

11

1 testimony, that it was based on statements that were
2 videotaped, so they are not in dispute as to what
3 was actually said when on the floor on June 19th
4 directed -- at least directed toward the President,
5 based on the context. Whether it extended to other
6 members, I don't know. But it did, in fact, call
7 out by his name and that -- in relationship whether
8 or not, "If you send the state police out to get me,
9 hell is coming to visit you personally."

10 Without knowing exactly what Senator
11 Boquist meant by that statement, you have to take it
12 at the surface of what -- of what it presents. As
13 our counsel stated, the test here is not whether or
14 not something is criminal in action to be a valid
15 threat. It is a -- we're in a civil setting, and it
16 is within employment law, and within that as to the
17 requirement and duty of the employer to provide a
18 workplace free of violence or threatened violence or
19 intimidation, et cetera.

20 So in my looking at that and then
21 looking at the second statement that was made off
22 the floor to the media directed toward the state
23 police as to what we've heard, I'm quotable, so
24 here's is the quote, "Send bachelors and come
25 heavily armed. I am not going to be a political

1 prisoner in the State of Oregon. It's just that
2 simple."

3 Now, what we also have had is that
4 shortly after that -- which is reflected in posting
5 that's on OLIS -- an email that was purportedly from
6 Senator Boquist to a reporter at the Oregonian, when
7 someone had stated that threat was thinly veiled, he
8 made it clear that it was not.

9 And that was -- I look at those three
10 things, and I come away that the statements that
11 were made by the -- Senator Boquist were, in fact,
12 credible threats.

13 What I have difficulty, though, is at
14 this point determining whether or not he still poses
15 a credible threat as he did on the 19th of June.
16 What I want to put on the record, and what we've
17 talked about at this point, is that we have had
18 situations that has, I think, been modified, or
19 has -- has died down in the sense of the angst,
20 anxiety, of when that statement was made on the
21 19th.

22 Counsel's report does come a week
23 later, on the 25th of June. Since then, we've had
24 approximately two additional weeks that have
25 occurred since then, and there has been no situation

1 of showing and demonstrating that whatever credible
2 threats there were in those statements, which I
3 stated I believe were, in fact, credible threats, of
4 those being continued out.

5 When you look at the context of what
6 those statements were, and when they were made, and
7 what they were -- the subject matter that -- we know
8 that that question is now moot. The state police
9 are no longer being requested to bring any of the
10 members who were absent during those nine days to
11 the Capitol to do their work.

12 And so to me, that is an action --
13 that is something that has happened since then that
14 tells me that I believe that the workplace is okay
15 for employees -- for the employees to be in.

16 I do want to point out that even
17 though the session has ended, we're in our interim,
18 we do, in fact, have individuals who are in this
19 building five days a week working their jobs either
20 in district for senators or representatives, as well
21 as the full-time staff of the legislative assembly,
22 and so I do feel that those things do need to be
23 taken into consideration.

24 I personally, in looking at these
25 recommendations -- I came up with an alternative

1 motion that would basically, one, find that the
2 statements of June 19th to be credible threats but
3 that there has been -- let me get the term here --
4 that the recommendation of counsel at this point
5 should be modified as to what steps should be taken
6 based on new information and testimony and
7 clarification that has occurred through the -- not
8 only the hearing today but what has happened since
9 the incident occurred.

10 So that's where the Chair is at. I do
11 not at this point see that continued threat that was
12 made on the 19th to be present today within the
13 Capitol.

14 I do want to clarify -- because I've
15 heard members say this and I think it's important
16 for the record to reflect -- our hearing today is
17 not going to the merits of any complaints --
18 (inaudible) of any reports that have been filed that
19 could be turned into a complaint, either a formal
20 complaint that we, as a committee, would be
21 addressing, or an informal complaint that would go
22 through that internal process for informal
23 complaints.

24 For us to say that we need to have
25 more information before we act on this as to more of

15

1 the merits, who brought it forward, why did they
2 bring it, is missing the point. This whole exercise
3 that we're going through today is to ensure that the
4 workplace is free of intimidation, threats of
5 violence, while that investigation is ongoing, and
6 to ensuring that everyone who comes to this Capitol
7 either as an employee, as a member, as a -- the
8 public, someone who works in this building as a
9 lobbyist, are all free of workplace intimidation or
10 threats of violence.

11 And so I want to make certain that we
12 realize that at some point it may be that we will be
13 meeting again to look at some specific conduct that
14 will, in fact, materialize as a formal complaint.

15 What I know at this point is we don't
16 know when that's going to happen or if that's going
17 to happen because the investigation is ongoing.

18 So with that, the position I would be
19 taking at this point would be to acknowledge the
20 threats that were made on the 19th to be credible
21 for what they -- when they were said and what was
22 stated at the time, and could, in fact, cause a
23 reasonable person in the workplace to fear for their
24 own safety or safety of others.

25 But at the same time, because of the

16

1 amount of time that has passed, other factors that
2 have come into play and things that have not come
3 into play, I do not believe that any additional
4 steps need to be taken as it pertains to Senator
5 Boquist being in the workplace here in the Capitol.

6 So that's where the Chair is at. So
7 at this point I don't know if anyone wants to make a
8 motion. And then as I stated, besides the three
9 that were provided to us as reference points by
10 staff, there is the one that I've put together which
11 basically would move forward the statements I've
12 just made.

13 So let me just see if anyone wants to
14 make any motions.

15 And, colleagues -- let me just take a
16 break -- for those who are here, I know that this is
17 probably something that you've never experienced in
18 the sense of being a legislative hearing, let alone
19 this type of a hearing. What we're doing at this
20 point is having open discussion as to what, if any,
21 motions will be made for us to take any action
22 within this work session would require a motion to
23 be before us.

24 So with that said, I'm going to
25 entertain any motions from any of the members.

1 SENATOR MANNING: Mr. Chair, if I
2 may -- and I will make a motion, but I want to make
3 a comment first.

4 SENATOR PROZANSKI: Sure.

5 SENATOR MANNING: There was a response
6 that went to the state of mind questioning what his
7 state of mind is. I would argue that none of us
8 actually know that.

9 Again, I'm also looking at the chance
10 meeting of someone that may encounter the senator at
11 the same time while the research and inquiry is
12 still going on. What would they look at? The
13 psychic of their mind? There are people here that
14 have real fear. They have real fear. They have
15 fear of physical and emotional and mental issues
16 with this.

17 So as I mentioned, that I will make a
18 recommendation that Senator Boquist, on his own, can
19 elect to stay out of the Capitol until the inquiry
20 is completed or you have down here the Senate rules
21 be temporarily modified to allow the senator to
22 remote participate from a remote location without
23 being in the building.

24 That will be my motion.

25 SENATOR PROZANSKI: All right. So I'm

1 going to try to summarize that and make sure we
2 understand. Your motion -- first of all, what I
3 heard was a motion as to going forward as compared
4 to the threats themselves. So let me just take that
5 part.

6 What I understand is that you believe
7 going forward Senator Boquist should voluntarily not
8 enter the building to perform his work as a senator
9 within the Capitol but be able to do that firm
10 locale, meaning a district office or somewhere else?

11 SENATOR MANNING: Exactly.

12 SENATOR PROZANSKI: And was there
13 something else to that portion of your motion?

14 SENATOR MANNING: The motion about the
15 threats being credible.

16 SENATOR PROZANSKI: Okay.

17 SENATOR MANNING: I find that they are
18 credible, and -- let me see. Where is the other
19 piece of that? I'll have to come back on that one.

20 SENATOR PROZANSKI: Let me ask for
21 clarification. We have a motion that's somewhat
22 before us now. It sounds like, number one, that the
23 threats that were made on the 19th are credible.

24 Number two, that Senator Boquist
25 should voluntarily not enter the Capitol as a

1 workplace during the pendency of the investigation
2 that is ongoing with the reports.

3 So, Senator, what if he failed to
4 voluntarily participate at the level that you would
5 like for him to do? What would be -- what -- where
6 would that take us?

7 SENATOR MANNING: That would take us
8 -- in looking at some of the senator's and staffers,
9 I think that we -- we open the door, then, to make
10 it sure that we have escorts, not maybe for him but
11 for everybody else.

12 SENATOR PROZANSKI: All right. What
13 we do know that there was at least a memorandum by
14 the two leaders of the chambers, the Senate
15 President as well as the Speaker of the House,
16 ensuring for employees who found themselves in a
17 situation where they thought that their presence
18 within this workplace, the Capitol, in conjunction
19 with Senator Boquist was a threat that they could,
20 in fact, make other accommodations for them doing
21 their work either outside of this building or maybe
22 in some other location and stuff, so I would want to
23 make certain that's also part of this record.

24 So --

25 SENATOR MANNING: Then with that,

1 Mr. Chair, that could be a lot of people. We don't
2 know how many. That could be a lot of people. That
3 could be so many people where we couldn't even reach
4 a quorum unless we modify the rules, or whatever
5 we're doing. We could see a lot of people, to
6 include staff members, that -- and again, there were
7 multiple reports done. I don't know what that looks
8 like.

9 SENATOR PROZANSKI: Senator Manning,
10 you said "quorum," so now I'm hearing you say
11 something about members. You know, based on what
12 I've heard from our counsel -- outside counsel -- at
13 this point whatever investigation is ongoing should
14 be resolved before we would be back in session in
15 February. That's our next scheduled.

16 Of course, clearly if we had a special
17 session called by the Governor, that would bring
18 members back together. I thought your motion was
19 more based on the needs and desire to ensure a free
20 work -- a workplace free of these type of threats
21 and violence for staff individuals or others --
22 let's say non members -- individuals.

23 SENATOR MANNING: I think we should
24 include members as well.

25 SENATOR PROZANSKI: Okay. All right.

1 All right. So do you feel that you've got your
2 motion out there?

3 SENATOR MANNING: Yeah. You know, I
4 think you phrased it the right way. You know, I do
5 find the threats credible, and I would ask that --
6 recommend that Senator Boquist, on his own, elect --
7 while the investigation or the inquiry is going
8 on -- to stay out of the Capitol or -- and to -- or
9 to suspend rules and temporarily modify to allow him
10 to participate remotely from the district office.

11 SENATOR PROZANSKI: Yeah. So if you
12 were saying having Senator Boquist be able to
13 perform his duties as a senator as it pertains to
14 voting from a different location, I believe that
15 that is not an option. We have had conversations
16 with legislative counsel regarding that, and
17 that's -- that as a possibility.

18 And if you remember, on the last two
19 days of our session some of the discussions and some
20 of the arrangements that were made to allow for all
21 members to be able to participate without
22 necessarily being on the floor at the same time, but
23 when they voted, they were on the floor to vote.
24 They were not able to vote from remotely.

25 So I just want to make certain you

22

1 understand that we pretty well have gone down that
2 path as to what legislative counsel says is
3 permissible for members.

4 SENATOR MANNING: I completely
5 understand, and -- well, then (inaudible) to the
6 aforementioned -- either the senator on his own
7 elects --

8 SENATOR PROZANSKI: Okay. So let me
9 summarize. My understanding is, number one, that --
10 there's two parts to this motion. First is that the
11 threats that were made on June 19th were credible
12 threats.

13 Second, that Senator Boquist should
14 voluntarily stay out of the building until the
15 investigation regarding the reports that are pending
16 have been resolved. And if he fails to do so, then
17 to have some type of requirement of making
18 arrangements with the Capitol for his entry here to
19 ensure that while he's here, others who work within
20 the building, or visiting the building, or whatever
21 capacity they may be, are safe from any type of
22 carrying out of threats.

23 I'm just trying to make sure we know
24 what we're going to be voting on.

25 SENATOR MANNING: Yeah, that's --

1 that's pretty much a summation.

2 SENATOR PROZANSKI: All right. Let me
3 ask Senator Olsen and Senator Knopp, do you
4 understand the motion as it is for a vote?

5 I'm not saying agreeing or anything.
6 I'm just saying I want to know -- make sure everyone
7 knows before we call for a vote.

8 SENATOR KNOPP: Generally speaking,
9 yes.

10 SENATOR PROZANSKI: All right.

11 SENATOR OLSEN: Generally speaking,
12 yes.

13 SENATOR PROZANSKI: All right.

14 Patsy, why don't you give us a roll
15 call, please.

16 SENATOR OLSEN: Mr. Chair, does that
17 motion require a second?

18 SENATOR PROZANSKI: No.

19 SENATOR OLSEN: Okay. I just wanted
20 to clarify.

21 SENATOR PROZANSKI: Yeah. Yeah.
22 We're under legislative rules, not parliamentarian.

23 SENATOR OLSEN: Okay.

24 PATSY: Senator Olsen?

25 SENATOR OLSEN: No.

1 PATSY: Senator Manning?

2 SENATOR MANNING: Aye.

3 PATSY: Senator Knopp?

4 SENATOR KNOPP: No.

5 PATSY: Chair Prozanski?

6 SENATOR PROZANSKI: No. Motion fails.

7 Any other motions from any of the
8 members?

9 SENATOR OLSEN: Mr. Chair, in reading
10 your -- if I may?

11 SENATOR PROZANSKI: You may.

12 SENATOR OLSEN: Thank you.

13 In reading your three different
14 motions that you have --

15 SENATOR PROZANSKI: Right. Let me
16 just clarify. Those three motions are not mine.
17 The only one I take credit for --

18 SENATOR OLSEN: Okay. I'm sorry.

19 SENATOR PROZANSKI: Not motion one.
20 Not motion two. Not motion three. Those came from
21 staff. Let's just make sure that's on the record.

22 SENATOR OLSEN: Okay. In reading the
23 motions then, not yours, I find one -- I find it
24 difficult to make any definitive obligation against
25 the senator predicated on counsel's reports because

1 she didn't interview the OSP, she didn't interview
2 (inaudible) -- she didn't interview the people that
3 allegedly have made complaints. That concerns me.

4 So -- but in reading the motions, I
5 see an area where I think we can come to agreement
6 on, and that would be on motion one, paragraph two,
7 where it says, "I recommend that Senator Boquist be
8 advised that applicable law and Rule 27 prohibit him
9 from engaging in retaliation against any employee or
10 member who may have brought forward or reported
11 concerns, and that Senator Boquist is to refrain
12 from any action or retaliation against any person
13 who participates in the process."

14 I think at this time that paragraph
15 fits perfectly, in my opinion. It allows us to --
16 some parameters to work with, but it tells Senator
17 Boquist we don't appreciate the comments, but those
18 people that are concerned about the comments you
19 must not retaliate against, and you must refrain
20 from any other action of retaliation against anyone
21 who participates.

22 That gives him the heads up that, you
23 know, we're looking at this but we haven't come to a
24 conclusion yet because the report is not done, so
25 please refrain from anything that would impair or

1 impact any member, public -- as you said, public
2 lobbyist, employee, that would be impacted -- I
3 think that fits perfectly. Gives him the warning
4 that we are watching, but yet still allows people to
5 understand that we see what's going on and we're
6 waiting for the final reports.

7 SENATOR PROZANSKI: All right.
8 Discussion on the motion?

9 Let me just ask a couple of questions,
10 Senator Olsen. Regarding your recommendation -- or
11 your motion -- excuse me -- it's basically the
12 boilerplate that's found on all of the various
13 motions as to ensuring that going forward that
14 Senator Boquist be advised as to the applicable law,
15 Rule 27, for not engaging in any type of
16 retaliation.

17 It does not appear that your motion
18 would include anything as to making a finding or
19 accepting the finding as to the threats from June
20 19th.

21 SENATOR OLSEN: First off, thank you
22 for clarifying it. It is on all three motions that
23 aren't yours, by the way. They are from staff.

24 Yes, I think -- I think before we make
25 that critical decision, we have to have a completed

1 investigation.

2 SENATOR PROZANSKI: Okay.

3 SENATOR OLSEN: That would be my
4 opinion.

5 SENATOR PROZANSKI: All right. Any
6 other questions before we take a vote on this
7 motion?

8 SENATOR MANNING: Mr. Chair, the
9 motion -- the actual threats are enshrined in film,
10 tape, whatever media, so there is no question about
11 what the senator said and reaffirmed it. The
12 question comes -- that was raised about state of
13 mind, that will keep playing over and over again.
14 Because when you meet certain people in the
15 building, what is his state of mind? There's
16 indication about talk about retaliation stuff in
17 there. We don't know what his state of mind will
18 be. This is -- I can't support that.

19 SENATOR PROZANSKI: Okay. All right.
20 Why don't we go ahead and take a vote on this,
21 Patsy.

22 PATSY: Senator Olsen?

23 SENATOR OLSEN: Yes.

24 PATSY: Senator Manning?

25 SENATOR MANNING: Nay.

20

1 PATSY: Senator Knopp?

2 SENATOR KNOPP: Aye.

3 PATSY: Senator -- I'm sorry -- Chair
4 Prozanski?

5 SENATOR PROZANSKI: No.

6 Motion fails.

7 I'd like to go ahead and make a motion
8 at this point, and this will be a motion that we
9 accept the findings of the outside counsel that
10 Senator Boquist's statements on June 19th
11 constituted credible threats of violence directed at
12 the Senate President and the Oregon State Police.

13 I further recommend that we reject the
14 recommendations of outside counsel based on new
15 information and testimony clarifying that Senator
16 Boquist does not currently pose a threat to staff,
17 public, or members of the Capitol.

18 And that I further recommend that
19 Senator Boquist be advised that applicable law, Rule
20 27, prohibit him from engaging in any retaliation
21 against any employee or member who may have brought
22 forward or reported concerns, and that Senator
23 Boquist is to be refrained from any action of
24 retaliation against any person who participates in
25 the process.

1 That is my motion from the Chair, and
2 I will open that up for discussion.

3 SENATOR KNOPP: Thank you, Mr. Chair.
4 I'm going to oppose that particular motion because
5 Senator Boquist was not interviewed during this
6 particular report -- call it investigation, what
7 have you -- and what we've learned is the two people
8 that the threatening comments were made toward were
9 not interviewed and were also not complainants in
10 the reports.

11 And so while I do agree that Senator
12 Boquist does not currently pose a threat to staff or
13 public or members of the Capitol, I can't go along
14 with the wording that exists in the motion, and so
15 therefore I'm going to be a no.

16 SENATOR PROZANSKI: Senator Manning?

17 SENATOR MANNING: Mr. Chair, thank
18 you. While the question is out there whether or not
19 the senator poses a direct threat to members or
20 others here in the building, I would say that right
21 now there are no other members in the building, so
22 that would seem to be true.

23 I'm concerned about what happens when
24 he comes into contact -- while it has no retaliation
25 here, again, I didn't bring it up, but it was

1 brought up about his state of mind. I don't know.
2 I don't know what would -- Senate response. I agree
3 with the -- with the -- 90 percent of your motion,
4 but that other piece still, you know, having access
5 to the building is going to -- it's going to bother
6 me.

7 I will support this as brought up, but
8 we're talking about an inquiry that is ongoing. I
9 think that we're trying to rush to a conclusion when
10 the evidence or interviews, stuff, are yet to be
11 explored. So this is an interim -- for me this is
12 an interim. How do we make sure that the workplace
13 is safe and people feel comfortable coming to work?

14 Again, while I think that I would
15 prefer the senator to say, "Hey, I will voluntarily
16 stay out," it's not in this -- in this report right
17 now. But I want to make sure we keep that on the
18 record. It is a concern of mine. And, you know, I
19 can -- with all the information that you put out
20 here, I can support this.

21 SENATOR PROZANSKI: Any other
22 comments?

23 SENATOR OLSEN: Yes.

24 SENATOR PROZANSKI: Senator Olsen?

25 SENATOR OLSEN: Thank you, very much.

1 Thank you.

2 This concerns me that we are rushing
3 to a judgment. And I understand the weight of
4 this -- of the argument and that we have to have a
5 workplace that is free from any intimidation,
6 harassment, et cetera, et cetera, as we have laid
7 out in Rule 27.

8 I find it interesting that a report is
9 made by the good attorney without interviews,
10 without reports in hand, without documents, that a
11 conclusion was reached. And, yes, the statements
12 were probably not appropriate, but other people may
13 have made statements that are similar, if not more
14 egregious than these.

15 And I find that we're trying to come
16 to a basis of -- it's not -- punishment is not the
17 term I want to use, but we're trying to come to a
18 level that we can guarantee safety. But we really
19 can't because we never know when one is going to do
20 something weird or violent. And I'm not saying that
21 Senator Boquist, would ever, ever do that. I'm just
22 saying we never know, because it's happened
23 throughout history, that people have done things
24 that we never anticipated they would do.

25 But to base a conclusion on an

1 incomplete document or an incomplete report
2 predicated on what I felt was a slight amount of
3 bias, and in effect, that she's an employment
4 attorney, and that that's your job to look to see
5 what's the best thing to do to make sure the
6 workplace is safe, but it jumps to conclusions and
7 casts aspersions and essentially convicts before
8 the -- before the final report is done.

9 So I find it difficult to support your
10 motion.

11 SENATOR PROZANSKI: All right. Any
12 other comments? So just in response, Senator Olsen,
13 as I've said to other members, I believe the task
14 that we have now is what, if any, interim steps need
15 to be taken while the investigation is going
16 forward. I would not be in favor of us trying to
17 make some determination as to whether or not there's
18 merits to the underlying reports that have been
19 filed that are currently being investigated.

20 Again, our task for this committee
21 regarding what we have before us is regarding the
22 workplace that we have a duty to ensure is free of
23 violence, threat of violence, and intimidation. And
24 as what I thought -- from my perspective, what I've
25 seen, what I've heard, and what I've concluded,

1 based on multiple factors, yes, those threats were
2 credible based on what was said just on the shear
3 force of the statements themselves and that
4 interviews did not need to be taken as to what was
5 said because it was -- it's there.

6 At the same time, it also is my belief
7 that because of the amount of time that has passed,
8 the lack of other issues coming forward, knowing
9 that Senator Boquist has been in the building
10 multiple times since this incident back on June
11 19th, that I do not believe that he poses a current
12 threat as he did back on the 19th of June based when
13 the statements were made. That's why I put it
14 forward in the way I did.

15 So with that, we do have a motion. Is
16 there any other comments? If not, we'll take a
17 vote.

18 Patsy?

19 PATSY: Senator Olsen?

20 SENATOR OLSEN: No.

21 PATSY: Senator Manning?

22 SENATOR MANNING: Aye.

23 PATSY: Senator Knopp?

24 SENATOR KNOPP: No.

25 PATSY: Chair Prozanski?

1 SENATOR PROZANSKI: The Chair votes
2 aye.

3 Motion fails.

4 SENATOR OLSEN: Mr. Chair, if I may
5 make a recommendation?

6 SENATOR PROZANSKI: You may.

7 SENATOR OLSEN: When we crazy eleven
8 came back, there was an enormous police presence in
9 our building. My recommendation would be that if
10 Senator Boquist needs to come back to the building
11 to work, that we, perhaps, bolster our security
12 force for the time that he's in the building for
13 that day to make certain that that security and
14 safety would be maintained. And not a security
15 guard that follows him around, but maybe just a
16 couple of extra officers to make certain that
17 everybody feels comfortable.

18 SENATOR PROZANSKI: All right. So I'm
19 going to ask the committee to direct themselves to
20 motion three. I believe what Senator Olsen is
21 recommending would be something in line with what
22 motion three has but maybe even more of a
23 modification than what it currently says.

24 For those who are not privy to what
25 motion three says, I think it's worth putting on the

1 record. This would be a motion that would be made
2 to the Chair recommending modifying the
3 recommendations of outside counsel based on new
4 information and testimony as follows:

5 A, require Senator Boquist to give at
6 least 12 hours' advanced notice in writing to --
7 then we fill in the blank -- if he intends to be in
8 the Capitol and limit his access to the following --
9 fill in the blank there.

10 Or, B, require Senator Boquist to be
11 escorted by the state police to his office and
12 official meetings.

13 Or, C, that the Senate rules be
14 temporarily modified to allow for remote
15 participation.

16 Or, D being a question mark.

17 It continues with the boilerplate
18 language regarding not having retaliation.

19 I will go back and just state that I
20 believe, based on the counsel's perspective, that we
21 are not able to temporarily modify to allow for
22 remote participation. Now, if we think that is
23 something that we would want to still include in
24 this modified motion, we could ask counsel to give
25 us a review and opinion on that, which would mean

1 that we would come back to take that up.

2 I would suggest that maybe that
3 portion not be in there because the reality is we're
4 not in session. There are not votes that need to be
5 taken. The next time that we will be scheduled for
6 any action on the Senate floor will be in September
7 if there are -- and I assume there probably will
8 be -- Governor's appointments and -- that need to be
9 ratified by the Senate.

10 So I'm wondering, Senator Olsen,
11 looking at that motion three, if you would be
12 comfortable with the A and B, and taking out the C?

13 SENATOR OLSEN: I would be more
14 comfortable if -- I don't have a problem with the
15 allowing this "know he's coming;" removing B so that
16 he's not escorted; taking out C; and adding D where
17 bolster OSP force for security reasons.

18 SENATOR PROZANSKI: And then do you
19 think that under A we have -- that's in there -- I'm
20 not saying that's what we need to go with -- at
21 least 12 hours' advanced notice, would that time
22 frame be within your motion? Or do you think
23 something else?

24 SENATOR OLSEN: Yes. I think that
25 would be appropriate to bring in another couple

1 officers.

2 SENATOR PROZANSKI: Okay.

3 SENATOR OLSEN: And I'd ask the rest
4 of the committee if they thought it was also. But I
5 think that it would be appropriate that he -- and I
6 would personally say that we don't send it to
7 President Courtney. I think that would -- I think
8 we might send it to the Secretary of the Senate so
9 that she is aware that he's coming in. And I would
10 not limit his -- I wouldn't limit his access to the
11 building because we'd have extra security in the
12 building.

13 SENATOR PROZANSKI: All right. And
14 so, basically, on the -- regarding that portion,
15 advanced notice in writing, which could mean email
16 as well as --

17 SENATOR OLSEN: Right. Right.

18 SENATOR PROZANSKI: I just want to
19 make sure we've got the record clear -- you're thing
20 to the secretary of the Senate, do you think that
21 would be appropriate over the director of the human
22 resources committee? I'm just throwing something
23 out there --

24 SENATOR OLSEN: Yeah, yeah. I think
25 that -- yeah, I think since it's on the Senate side,

1 I think it would be appropriate for the Secretary of
2 Senate.

3 SENATOR PROZANSKI: Okay. I can -- I
4 have no problem with that. I just want to make sure
5 we know what we're talking about.

6 SENATOR OLSEN: Yeah. Yeah.

7 SENATOR PROZANSKI: Gentlemen, you've
8 heard somewhat of the modification. Have I got this
9 correct it would be under motion three we would take
10 the A, and it would read something to the effect
11 "require Senator Boquist to give at least 12 hours'
12 advanced notice in writing to the Secretary of the
13 Senate if he intends to be in the Capitol, and limit
14 his access" -- well, we would take out the limiting
15 the access.

16 SENATOR OLSEN: Yeah. I would think
17 that should come out --

18 SENATOR PROZANSKI: Because of the
19 next part?

20 SENATOR OLSEN: Right.

21 SENATOR PROZANSKI: So that would be
22 there. And then what we would do, "and that OSP's
23 presence would be increased." In other words, they
24 would have additional trooper or troopers in the
25 building during the time that Senator Boquist would

1 be in the building.

2 SENATOR OLSEN: And then -- and then
3 include, once again, that following paragraph.

4 SENATOR PROZANSKI: Yes. Yeah. All
5 right. So I'm going to ask Senator Manning and
6 Senator Knopp, you've heard what we've discussed,
7 myself and Senator Olsen. Do you have any questions
8 regarding that proposed recommendation? Senator
9 Manning?

10 SENATOR MANNING: The question that I
11 have is counsel's recommendation to acknowledge the
12 actual threat. I pulled up this motion. I think
13 that I had made something similar to this on looking
14 at how we make sure that people are feeling
15 comfortable in the building.

16 I don't particularly care who the
17 notification comes through. I think that it is a
18 slight when we say that the Senate President
19 shouldn't receive this. He's not the president
20 of -- he's the President of the Senate over
21 everybody, and he's going to have to make a call.
22 So I think that that's something that we need to do
23 away with.

24 I would prefer for it to go through HR
25 because the Secretary of the Senate is going to have

1 to communicate with the President of the Senate. It
2 makes no sense to me.

3 I think that having -- if he's in the
4 building making sure that we have enhanced OSP, you
5 know, we did that in the past, and I'm okay with
6 that. But just bear in mind that this is not a
7 conclusion. This is just an action to take while
8 the investigation or the inquiry proceeds.

9 So I don't want to get that lost in
10 this. This is not a conclusion at all.

11 SENATOR PROZANSKI: Yeah. Can I
12 respond to your statement? I personally agree with
13 Senator Olsen. I think the Secretary of the Senate
14 would be the appropriate person in this particular
15 situation. This is why. We know that there's
16 ongoing -- potential litigation ongoing now, as well
17 as, let's say, concerns as to different individuals
18 in the building.

19 Senator Boquist has made it very
20 clear, from my discussions with him and my readings
21 of his statements, that he does not believe and
22 wants to have contact with HR, specifically Jessica
23 Neely (phonetic), who is our director. And because
24 there's potential litigation involving her, I don't
25 think that would be the appropriate person that

1 should be receiving the notification.

2 Same thing with the President. I felt
3 that what Senator Olsen has suggested is a person
4 who is an officer of the Senate, who is voted by all
5 members to be in that capacity, and she really is
6 kind of our air traffic controller for the business
7 of the Senate, and I think that when you enter
8 anything into the record, into the journals, that's
9 where it's going. So I personally think that
10 Senator Olsen is correct, and that's why I would not
11 be as comfortable putting adversarial interest in
12 contact with each other at this stage.

13 SENATOR MANNING: Mr. Chair, I
14 understand what you're saying. But then potentially
15 we can make anybody adversarial, you know. This is
16 shaping the battle field. I don't have a problem
17 with it, you know. That's fine. We can do that. I
18 can live with that. I'm not going to lose any
19 sleep.

20 But, you know, I am concerned, again,
21 about what -- where are we going with this and that
22 we don't get distracted from this is the beginning
23 or part of an ongoing inquiry, and we're not coming
24 up with a conclusion. I don't want us to get lost
25 in that.

1 SENATOR PROZANSKI: Yeah. To me this
2 is -- this is an intervention, is what it really is.
3 It's basically -- the investigation has been ongoing
4 prior to June 19th, and because of what happened on
5 June 19th, we've been asked to take steps to ensure
6 safety within the workplace.

7 Clearly this is not -- goes to any
8 portion of the merits of any of the reports that
9 outside counsel is currently reviewing and
10 potentially would bring forward through the Rule 27
11 process for processing reports into complaints,
12 either formal or informal.

13 SENATOR OLSEN: Mr. Chair, would it --
14 would it be inappropriate to ask counsel if she felt
15 that this would be significant enough to ensure a
16 safe workplace for the time being in the interim?

17 SENATOR PROZANSKI: Sure. We can have
18 Brenda come back up and give her perspective. I
19 mean, to me, I guess I'm going to say -- well, I'll
20 -- let's hear from you first. I mean, I guess what
21 I'm going to say -- while she's getting situated --
22 is it is showing that we have taken all the
23 information that's come before us and we're taking
24 what we think are reasonable steps at this point to
25 ensure safety within the workplace.

1 MS. BUMGART: Thank you. Thank you,
2 Mr. Chair, Senator Olsen, and members.

3 I agree with some of the comments.
4 It's a difficult position but one that I think is
5 necessary and is a balance, right, between the
6 senator's ability to do his job and staff's -- the
7 importance of the branch ensuring safety for the
8 staff, members, the public, et cetera, as it's been
9 discussed. So I think the issues are being
10 discussed appropriately.

11 It's a million-dollar question, isn't
12 it, and I think Senator Olsen, you said, "We can
13 never know." Right? We can never know. We
14 can't -- you know, we only know what we know. And
15 what we know, at least at the time I issued the June
16 25th memo, is articulated in that memo. And
17 certainly there have been -- there has been
18 subsequent information. Chair Prozanski also
19 referred to the -- what I think has been quoted as a
20 double-down statement in the press. This isn't
21 thinly veiled. This is a real threat.

22 So, I mean, I think the committee has
23 articulated what the facts are. My only response
24 would be -- and then I will answer your question --
25 is I think it's -- where I sit, I take a step back,

1 and I'm not so focused on was this a direct
2 communication in the middle of a debate on the
3 Senate floor between Senator Boquist and President
4 Courtney. The way that I need to look at this in
5 advising the branch and that the law looks at it is
6 the effect on the recipients.

7 It's not just what was the intent
8 behind Senator Boquist's statement, how did that
9 affect President Courtney or how did that affect the
10 Oregon State Police, and that's part of why I did
11 not conduct the interview at the time. Because
12 given the urgency -- what I believed to be the
13 urgency of the situation, the fact we were not
14 dealing with disputed statements, and the fact that
15 the way the law looks at this is not just the effect
16 on the recipient of the statement or the
17 inappropriate conduct, but on those who are also
18 subjected to that in the workplace.

19 So -- so that is a -- I just want to
20 make that clear for the record, too, because I think
21 some of the comments have been struggling with how
22 do we have a finding without an interview or knowing
23 the full reports, and I understand that.

24 But I hope that helps explain where I
25 was coming from. I don't believe I had access to

1 the senator, and even if I did, I think I would
2 issue the same recommendation given what I believe
3 to be an urgency of the timing, given the nature of
4 the threats.

5 So the question is, is this enough?
6 If you all are comfortable that these steps -- this
7 is the question I think you need to ask yourselves
8 and that I don't think I can answer for you. Is
9 this sufficient to ensure that the branch has taken
10 prompt, remedial, effective steps to ensure that
11 during the pendency of the investigation that we are
12 doing what we can to ensure that employees, members,
13 lobbyists, people of the public, anyone who is
14 involved in this in any way, as a reporter, as a
15 formal complainant, as a witness, is not going to be
16 subjected to ongoing or additional threats of
17 violence, actual violence, intimidation, or a
18 hostile work environment. That is the legal
19 obligation on the branch.

20 I think this is much better than not
21 doing anything. I still feel a little bit
22 differently about the passage of time. I would look
23 at this more as if -- I agree, and that is a factor,
24 that we have gone a couple weeks. These have not
25 been acted upon. We are not in active session; that

46

1 these are factors to consider. But I also don't
2 know that if we're looking at it from the affected
3 employees -- particularly the employee's perspective
4 -- that that passage of time has really changed
5 their level of -- of concern.

6 I'm very pleased to see the piece
7 about the nonretaliation because from a risk
8 perspective to the branch that is one of the biggest
9 risks that through the pendency of the investigation
10 that there could be conduct or comments, and these
11 could be in person, they could be via email, via
12 social media to the media, that would put the branch
13 at risk that additional comments or conduct from
14 Senator Boquist or others directed towards
15 participants in the process could further exacerbate
16 the situation.

17 So I'm very pleased to see that that
18 statement in there about the nonretaliation -- I
19 think that should be taken very, very seriously from
20 a -- one, it's the right thing to do. But two, from
21 a risk perspective to the branch. That is something
22 you want to keep control over.

23 SENATOR PROZANSKI: All right. Thank
24 you.

25 SENATOR OLSEN: Mr. Chair, if I may.

1 I might have missed it, but I don't believe

2 Ms. Bumgart put her name on the record for this --

3 MS. BUMGART: Oh, thank you.

4 SENATOR OLSEN: Does she have to
5 again?

6 SENATOR PROZANSKI: Well --

7 SENATOR OLSEN: Since she's the only
8 one, but --

9 SENATOR PROZANSKI: Yeah, and since it
10 was always going forward, it is kind of a
11 continuation.

12 But for the record, if you will be so
13 kind.

14 MS. BUMGART: For the record -- thank
15 you, Mr. Chair. Brenda Bumgart Stoel Reeves.

16 SENATOR PROZANSKI: All right.

17 MS. BUMGART: Thank you.

18 SENATOR PROZANSKI: So the only other
19 thing I'm going to say I think it's worth noting is
20 that even though some of us would like to have had
21 had that ongoing investigation on this interim
22 action to include interviews with Senator Boquist, I
23 think we all know in time those statements were made
24 on the 19th. On the 20th through the -- up until
25 the 29th I would say he was not available, let alone

48

1 probably wasn't interested an interview to be done
2 because he wasn't here. And so that would bring it
3 forward.

4 And, of course, your report came to us
5 on the 25th while the walkout was still -- was still
6 ongoing.

7 All right, with that we have a motion
8 before us, I'm just going to recapture it so we make
9 certain we have it correct when we vote.

10 This would be a recommendation to
11 modify the recommendations of outside counsel based
12 on new information and testimony as follows:

13 Require Senator Boquist to give at
14 least 12 hours' advanced notice in writing to the
15 Secretary of the Senate if he intends to be at the
16 Capitol.

17 That while he is at the Capitol, there
18 would be an increased presence of OSP troopers or
19 officers while Senator Boquist is in the Capitol.

20 Lastly -- and the recommendation would
21 include that Senator Boquist would be advised that
22 applicable law and Rule 27 prohibit him from
23 engaging in any retaliation against any employee or
24 member who may have brought forward or reported
25 concerns.

1 And that the Senator Boquist is to be
2 refrained from any action or retaliation against any
3 person who participates in this process.

4 That's the motion that's before us.
5 Clarity?

6 SENATOR OLSEN: Mr. Chair, just one
7 thing for clarification to make certain it's on the
8 record. And you did this before. In writing could
9 also mean via email?

10 SENATOR PROZANSKI: Yes, it can be
11 electronic writing.

12 SENATOR OLSEN: Okay. Thank you.

13 SENATOR PROZANSKI: Senator Manning?

14 SENATOR MANNING: Yeah, you said
15 increased OSP security presence in the building. Is
16 it in the building or it's on the Senate side? We
17 can have an increase on House side and it would have
18 no affect, so are we talking an increase on the
19 Senate side?

20 SENATOR PROZANSKI: Well, I think the
21 increase has got to be across the building. This
22 workplace involves all individuals. And if Senator
23 Boquist were to, say, walk across that demarcation
24 of the Senate into the House -- some people would
25 say the lower chamber just for whatever -- you know,

1 we don't want it to stop there.

2 SENATOR MANNING: Okay.

3 SENATOR PROZANSKI: So I think --

4 SENATOR MANNING: Okay.

5 SENATOR PROZANSKI: Does that --
6 understand?

7 SENATOR MANNING: Yeah.

8 SENATOR PROZANSKI: Clear?

9 SENATOR MANNING: Yep.

10 SENATOR PROZANSKI: All right. All
11 right. I think we now have the motion. I think
12 everyone has any other questions on it? If not,
13 Patsy, why don't you go ahead and call the roll.

14 PATSY: Senator Olsen?

15 SENATOR OLSEN: Yes.

16 PATSY: Senator Manning?

17 SENATOR MANNING: Aye.

18 PATSY: Senator Knopp?

19 SENATOR KNOPP: Aye.

20 PATSY: Chair Prozanski?

21 SENATOR PROZANSKI: Chair votes aye.

22 Motion passes. All right. So with

23 that, we've, I think, concluded our work as to what

24 this committee has been asked to do. I want to

25 thank everyone here as committee members, first, for

1 your time and effort to make it to the building for
2 this.

3 And for all those who have been
4 participating as observers, I want to thank you for
5 taking time out of your busy day to be here. We
6 hope that this has been a meaningful experience for
7 you as to how our state government works in moving
8 forward on these type of issues, and I hope that you
9 realize that each and every member here has weighted
10 the effort of determining what is the best course
11 for the branch as it pertains to the workplace being
12 free of any threat of violence or intimidation, and
13 that we will not be taking any action at this point
14 regarding any merits of any reports that are
15 currently being investigated. Those will come to
16 us, if they come to us, at some time in the future.

17 Any other closing comments? Thank you
18 very much. We're adjourned.

19 --o0o--
20
21
22
23
24
25

1 STATE OF OREGON)

2) ss.

3 County of Lane)

4
5
6 I, Sara Fahey Wilson, CSR, a Certified
7 Shorthand Reporter for the State of Oregon, certify
8 that the transcript is a true record of the
9 transcription of the audio recording; that the
10 foregoing transcript consisting of 50 pages contains
11 a full, true, and correct transcript of said audio
12 recording so reported by me to the best of my
13 ability on said date.

14 IN WITNESS WHEREOF, I have set my hand
15 this 24th day of August 2019, in the City of Eugene,
16 County of Lane, State of Oregon.

17
18
19
20
21
22 

23 Sara Fahey Wilson, CSR

24 CSR No. 06-0400

25 Expires: March 31, 2020